

~~FILED
U.S. DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS~~

KERRY LANGSTAFF, et al

2004 JUN 29 A 8:00

§ Civil Action No. 04-MBD-10128
§ and No. 04-MBD-10137

Petitioners/Respondents

U.S. DISTRICT COURT
DISTRICT OF MASS.

§ Related Civil Action:
§ United States District Court for the
§ Northern District of California, San
§ Jose Division
§ Civil Action No. 03-CV-01116
§ KERRY LANGSTAFF, et al vs.
§ MCNEIL CONSUMER &
§ SPECIALITY
§ PHARMACEUTICALS, et al

v.

ALLEN A. MITCHELL, M.D.,
SAMUEL M. LESKO, M.D., and
TRUSTEES OF BOSTON UNIVERSITY

Petitioners/Respondents

**PETITIONERS LANGSTAFF PLAINTIFFS' EMERGENCY MOTION FOR
EXPEDITED ENTRY OF ORDER**

TO THE HONORABLE JUDGE OF SAID COURT:

Come now Langstaff Plaintiffs, party in the above-referenced matters, and make this Emergency Motion for Expedited Entry of Order and request that such Order be entered today, Monday, June 28, 2004.

On June 10, 2004, the Court held a hearing regarding Langstaff Plaintiffs' Motion to Compel and Boston University's Motion to Quash Oral Subpoena and Subpoena Dives Tecum. The Langstaff Plaintiff seek discovery of relevant evidence from Boston University, a non-party, to which Boston University objects. The underlying litigation involving the Langstaff Plaintiffs is in a sister court, the United States District Court for the Northern District of California. As the Court is aware from the June 10th hearing, the discovery deadline has already passed in the underlying litigation, and an agreement has been entered to extend the deadline solely in regard to non-party Boston University. However, the agreement is only in effect until June 30, 2004. If the Court were to order that Langstaff Plaintiffs are entitled to oral deposition of Drs. Mitchell and Lesko, then such depositions are scheduled, by mutual agreement, to go forward the next two

days, June 29th and 30th, 2004. If the depositions go forward, Drs. Mitchell and Lesko are available. Both doctors would be deposed in Boston, and counsel, who has made travel arrangements, will be attending from California and Texas.

Due to deadlines, over which Langstaff Plaintiffs are aware that this Court has no control, and the foregoing travel and scheduling concerns, Langstaff Plaintiffs hereby request that the Court enter an Order granting Langstaff Plaintiffs' Motion to Compel and denying Boston University's Motion to Quash Oral Subpoena and Subpoena Duces Tecum in order for the depositions to go forward as parties have planned. Langstaff Plaintiffs recognize that this request for an immediate ruling is a burden to the Court and that the time and resources of the Court are valuable and finite. In the interest of the Langstaff Plaintiffs' underlying suit, and in the coordination and schedules of deponents and attorneys, the Langstaff Plaintiffs make this Emergency Motion for Expedited Entry of Order and pray that it be granted and orders be entered today granting Langstaff Plaintiffs' Motion to Compel and denying Boston University's Motion to Quash Oral Subpoena and Subpoena Duces Tecum. Langstaff Plaintiffs further pray for any and all additional relief to which they may be entitled.

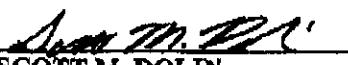
Respectfully submitted,



WATERS & KRAUS, LLP
SCOTT M. DOLIN
TX State Bar No. 24029523
CA State Bar No. 213321
ASHLEY W. McDOWELL
TX State Bar No. 24005257
PETER A. KRAUS
TX State Bar No. 11712980
3219 McKinney Ave., Suite 3000
Dallas, Texas 75204
(214) 357-6244
(214) 357-7252 Fax

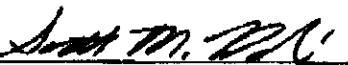
CERTIFICATE OF SERVICE

I certify that the foregoing Petitioners' Langstaff Plaintiffs Emergency Motion for Expedited Entry of Order was served on Boston University and all counsel of record via facsimile on the 28th day of June, 2004.


SCOTT M. DOLIN

CERTIFICATE OF CONFERENCE

I certify that counsel for Petitioners Langstaff Plaintiffs and counsel for Respondents Boston University have discussed this matter via telephone on June 28, 2004. No resolution was reached regarding the matters contained therein.


SCOTT M. DOLIN

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

KERRY LANGSTAFF, et al

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EXPEDITED ENTRY OF ORDER**

On the _____ day of _____, 2004, the Court considered Petitioners' Langstaff Plaintiffs Emergency Motion for Expedited Entry of Order. After considering the motion, the Court GRANTS the motion

Signed on the _____ day of _____, 2004.

HONORABLE JUDGE